



Order Filed on October 16, 2019
by Clerk
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1

LOWENSTEIN SANDLER LLP

Arielle B. Adler, Esq.
Bruce Buechler, Esq.
Joseph J. DiPasquale, Esq.
Jennifer B. Kimble, Esq.
Kenneth A. Rosen, Esq.
Mary E. Seymour, Esq.
One Lowenstein Drive
Roseland, New Jersey 07068
(973) 597-2500 (Telephone)
(973) 597-2400 (Facsimile)

*Proposed Counsel to the Debtor and
Debtor-in-Possession*

In re:

HOLLISTER CONSTRUCTION SERVICES, LLC,¹

Debtor.

Chapter 11

Case No. 19-27439 (MBK)

**ORDER APPROVING A STIPULATION AND ORDER REJECTING CONTRACT FOR
537 COLUMBIA STREET PROJECT**

The relief set forth on the following pages, numbered two (2) through and including three (3), is hereby **ORDERED**.²

DATED: October 16, 2019


Honorable Michael B. Kaplan
United States Bankruptcy Judge

¹ The Debtor in this chapter 11 case and the last four digits of its taxpayer identification number is Hollister Construction Services, LLC (5404).

² Capitalized terms used but not defined in this Order shall have the meaning ascribed to such terms in the *Stipulation and Order Rejecting Contract for 537 Columbia Street Project*, a copy of which is attached hereto as Exhibit "A."

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Debtor: Hollister Construction Services, LLC

Case No.: 19-27439 (MBK)

Caption: Order Approving a Stipulation and Order Rejecting Contract for 537 Columbia Street Project

Upon the request of the above-captioned debtor and debtor-in-possession, Hollister Construction Services, LLC (the “Debtor”), seeking approval of a *Stipulation and Order Rejecting Contract for 537 Columbia Street Project* (the “Stipulation”), a copy of which is attached as Exhibit hereto as “A,” and the Court having jurisdiction over the matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey entered on July 23, 1984, as amended on September 18, 2012 (Simandele, C.J.); and the Court having found that the matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and the Court having found that it has the authority to enter a final order consistent with Article III of the United States Constitution; and the Court having found that the venue of this proceeding and the Stipulation in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the Debtor’s notice of the Stipulation and opportunity for a hearing on the Stipulation were appropriate under the circumstances and that no other notice need be provided; and the Court having reviewed the Stipulation and having heard the statements of counsel in support of the relief requested therein at a hearing held before the Court on October 8, 2019; and the Court having determined that good cause exists for granting the relief requested;

IT IS HEREBY ORDERED as follows:

1. The Stipulation is **APPROVED**.
2. The Debtor and Owner are authorized and directed to fulfill their respective obligations under the Stipulation and execute all documents necessary to effectuate the Stipulation.
3. Pursuant to section 365(a) of the Bankruptcy Code, the Debtor is authorized to reject the Contract with Owner *nunc pro tunc* the Petition Date in accordance with the Stipulation.

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Debtor: Hollister Construction Services, LLC

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4. Notice of the Stipulation as provided is hereby deemed good and sufficient notice and no further notice is required.

5. This Order is effective immediately upon its entry and the provisions of Bankruptcy Rules 6004(h) and/or 6006(b) are hereby waived.

6. The Court shall retain jurisdiction to hear and determine any and all matters or disputes arising from or related to the implementation, enforcement and/or interpretation of this Order and the Stipulation.

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Debtor: Hollister Construction Services, LLC

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Caption: Order Approving a Stipulation and Order Rejecting Contract for 537 Columbia Street Project

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

Lowenstein Sandler LLP
Kenneth A. Rosen, Esq.
One Lowenstein Drive
Roseland, NJ 07068
Tel: 973-597-2500
Fax: 973-597-2400
Email: krosen@lowenstein.com
Attorneys for the Debtor

Rivkin Radler LLP
Yale A. Leber, Esq.
25 Main Street - Court Plaza North
Suite 501
Hackensack, NJ 07601-7082
Tel: 201-287-2460
Fax: 201-489-0495
Email: yale.leber@rivkin.com
Attorneys for RH 537 Building Owner LLC

IN RE:

HOLLISTER CONSTRUCTION SERVICES
LLC,

Debtor.

Chapter 11

Case No. 19-27439-MBK

Honorable Michael B. Kaplan

**STIPULATION AND ORDER REJECTING CONTRACT FOR 537 COLUMBIA
STREET PROJECT**

This Stipulation and Order (the "Stipulation and Order") is made as of September __, 2019, between Hollister Construction Services, LLC, the debtor and debtor-in-possession in the above-captioned chapter 11 case (the "Debtor") and RH 537 Building Owner LLC ("Owner," and together with the Debtor, collectively, the "Parties") through their respective counsel. All capitalized terms used herein that are not otherwise defined herein shall have the same meaning ascribed to them in the Contract (as defined below).

RECITALS

WHEREAS, on June 18, 2019, the Debtor, as design-builder, and Owner entered into that certain Contract By and Between Owner, as Owner, and Debtor, as Design-Builder (the "Contract") for the design build for the project located at 537 Columbia Street, Brooklyn, New York (the "Project");

WHEREAS, on September 11, 2019 (the "Petition Date"), the Debtor filed a voluntary petition with the United States Bankruptcy Court for the District of New Jersey (the "Bankruptcy Court") for relief under title 11 of the United States Code (the "Bankruptcy Code");

WHEREAS, the Debtor continues to operate its business and manage its properties as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, the Debtor does not believe that it is in its best interest or in the best interest of its estate to try to continue the Project or to assume the Contract pursuant to section 365(a) of the Bankruptcy Code; and

WHEREAS, the Debtor desires to immediately reject the Contract *nunc pro tunc* the Petition Date pursuant to section 365(a) of the Bankruptcy Code pursuant to the terms and conditions set forth in this Stipulation and Order.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the adequacy of which is hereby acknowledged, and based upon the mutual agreements and covenants set forth in this Stipulation and Order, and for good and sufficient cause, the Parties hereby stipulate and agree as follows:

1. Upon approval of this Stipulation and Order, and without any further action by the Parties, the Debtor acknowledges and agrees that the Contract shall be deemed rejected pursuant to section 365(a) of the Bankruptcy Code *nunc pro tunc* the Petition Date, and that the Owner shall be granted relief from the Court's September 20, 2019 Order (I) Restating and Enforcing the Automatic Stay, Anti-Discrimination Provisions, and Ipso Facto Protections of the

Bankruptcy Code, (II) Approving the Form and Manner of Notice Related Thereto, and (III) Granting Related Relief (ECF no. 140) to the extent set forth herein.

2. The Debtor shall cooperate with and take all reasonable actions requested by the Owner to facilitate an orderly transition of the Project from the Debtor to a new design-builder or contractor chosen by the Owner.

3. With respect to all contractors, subcontractors, design consultants, material suppliers, and similar parties that have contractual arrangements with the Debtor to perform work in connection with the Project (collectively, the "Subcontractors"), the Debtor shall coordinate with the Subcontractors to provide the Owner with pertinent information regarding each Subcontractor's work on the Project, including the materials terms and outstanding amounts due under each Subcontractor's contractual arrangement with the Debtor.

4. The Owner shall have the right to enter into contractual arrangements with, and make direct payments to, any Subcontractor in connection with the Project, including with respect to amounts currently outstanding, whether pre- or post-petition, under any Subcontractor's contractual arrangement with the Debtor.

5. Nothing herein is intended to release any claims or defenses of any of the Parties hereto, and the Owner and the Debtor expressly reserve all of their rights and defenses with respect to any rejection damage or other claim asserted by the Owner.

6. In the event that the Bankruptcy Court does not approve this Stipulation and Order, this Stipulation and Order shall have no force or effect and all rights of the Parties prior to entry into this Stipulation and Order will be restored.

7. The Parties are authorized to take all actions necessary to effectuate the relief granted pursuant to this Stipulation and Order.

8. The Bankruptcy Court shall retain jurisdiction with respect to all matters arising from or related to the interpretation, implementation or enforcement of the terms and provisions of this Stipulation and Order.

Dated: October 7, 2019
Trenton, New Jersey



Kenneth A. Rosen, Esq.
LOWENSTEIN SANDLER LLP
One Lowenstein Drive
Roseland, New Jersey 07068
(973) 597-2500 (Telephone)
(973) 597-2400 (Facsimile)
krosen@lowenstein.com

Attorneys for the Debtor



Yale A. Leber, Esq.
RIVKIN RADLER LLP
25 Main Street - Court Plaza North
Suite 501
Hackensack, NJ 07601-7082
Tel: 201-287-2460
Fax: 201-489-0495
Email: Yale.Leber@rivkin.com

Attorneys for RH 537 Building Owner LLC

So Ordered this _____ day of _____ 2019

Honorable Michael B. Kaplan,
United States Bankruptcy Judge